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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/196,338	11/19/1998	SEAN HANDEL	10761.0009-00	9014
81331	7590	08/03/2011		
Accenture/Finnegan, Henderson, Farabow, Garrett & Dunner, LLP 901 New York Avenue Washington, DC 20001-4413			EXAMINER DURAN, ARTHUR D	
			ART UNIT 3682	PAPER NUMBER
			NOTIFICATION DATE 08/03/2011	DELIVERY MODE ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SEAN HANDEL, BRIAN DAY and MIYA YUEN

Appeal 2010-008230
Application 09/196,338
Technology Center 3600

Before, HUBERT C. LORIN, JOSEPH A. FISCHETTI, and BIBHU
R. MOHANTY, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

SUMMARY OF DECISION

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's non-final rejection of claims 1, 10, 11, and 25-29. We have jurisdiction under 35 U.S.C. § 6(b). (2002)

We REVERSE.

THE INVENTION

Appellants claim a system and method for an article of manufacture for personalized product report. (Specification 1:1-2).

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A computer-implemented method for delivery of reporting personalized product/service rating information, the computer including a processor and memory and the method comprising steps performed by the computer of:
 - (a) providing, by the processor, a database that stores a plurality of user records corresponding to a plurality of users, wherein each user record is associated with a plurality of user personas stored in the database and each user persona is associated with a plurality of user profiles, wherein each user profile comprises a set of personal information data, the personal information data including direct user inputs, information based on use of the product/service rating information, a profile field, and a profile restriction, wherein the profile field contains detailed personal information of a user associated with the user profile and the profile restriction contains rules in the form of a pattern to restrict the rules to certain uses, wherein each of the user profiles for each user record is grouped into the user personas, each being related to a unique, useful context such that at least one of the user profiles is grouped in at least two user personas wherein a first subset of users from the plurality of users have each submitted product/service rating data for at least one product or service, and wherein the product/service rating data is stored in the user profiles in the database corresponding to the first subset of users;
 - (b) receiving, by the processor, from a requesting user a request for rating information for a desired product/service, wherein the

requesting user is one of the plurality of users, and wherein the requesting user's profile is selected from a plurality of the requesting user's profiles;

(c) identifying, by the processor, a first set of user profiles, wherein each of the users associated with the first set of user profiles has previously submitted product/service rating data for the desired product/service;

(d) mapping, by the processor, the personal information data in the first set of user profiles along multiple dimensions to the personal information data in the user profile of the requesting user;

(e) filtering, by the processor, the first set of user profiles to create a second set of user profiles, wherein the second set of user profiles includes a number of user profiles equal to a first threshold variable n having a value indicating the number of user profiles contained within the second set of user profiles;

(f) determining, by the processor, whether the second set of user profiles differs from the requesting user's profile by more than a second threshold variable y having a value indicating the distance between the second set of user profiles and the requesting user's profile;

(g) if the second set of user profiles differs from the requesting user's profile by more than the second threshold variable y , repeating, by the processor, the filtering and determining steps at relaxed values of the first and second threshold variables n and y to obtain an updated second set of user profiles;

(h) creating, by the processor, a set of product/service rating data for the desired product/service, wherein the set of product/service rating data comprises rating information from the second set of user profiles, and wherein the set of product/service rating data also includes product/service information from a content database including at least information about pricing from a variety of suppliers rated by the second set of user profiles; and

(i) reporting, by the processor, the set of product/service rating data to the requesting user.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Sumita

US 5,907,836

May 25, 1999

O'Neil	US 5,987,440	Nov. 16, 1999
Bergh	US 6,112,186	Aug. 29, 2000
King	US 6,452,614 B1	Sep. 17, 2002
Ginter	US 2005/0177716 A1	Aug. 11, 2005

The following rejection is before us for review.

The Examiner rejected claims 1, 10, 11, and 25-29 under 35 U.S.C. § 103 as unpatentable over Bergh in view of Sumita, King, O'Neil and Ginter.

ANALYSIS

Each of independent claims 1, 10, and 11 require computer implemented logic which for

(e) filtering, by the processor, the first set of user profiles to create a second set of user profiles, wherein the second set of user profiles includes a number of user profiles equal to a first threshold variable n having a value indicating the number of user profiles contained within the second set of user profiles;

(f) determining, by the processor, whether the second set of user profiles differs from the requesting user's profile by more than a second threshold variable y having a value indicating the distance between the second set of user profiles and the requesting user's profile;....

The Examiner found that:

Bergh discloses a first set of user profiles and Bergh discloses filtering the first set to obtain a # n of user profiles in a second set (10:25-46). Note that Bergh discloses that a user set can be filtered with a minimal threshold value or that a user set can be filtered to obtain the more related 25 users with a minimal threshold value. Bergh further

discloses determining whether the second set differs by more than y from the requesting user (10:25-37; 8:57-67). Note that Bergh discloses that L is the threshold value for determining the extent to which the second set can differ from the user.

(Answer 41).

However, according to the claims, the variable n must correspond to a number of user profiles having a value indicating the number of user profiles contained within the second set of user profiles. The Examiner however found that, in Bergh, “ L is the threshold value for determining the extent to which the second set differs from the user.” (Answer 41). But, a reading of Bergh at 10:25-57 reveals that L only represents a user similarity factor with respect to the requesting user. Thus, the factor L is a predetermined threshold value. Rather than representing a number of user profiles contained within a set of user profiles, the threshold value, L , is instead a unitless value which can be set to any value. (Col. 10, 1.35). When the value L is changed, it changes depending on the method used to calculate the similarity factors, the item domain, and the size of the number of ratings that have been entered (col. 10, 37-39), but such change is not based on the number of user profiles contained within a second set of user profiles as required by the claims. The Examiner has not provided an evidentiary basis for showing how the unitless threshold value L of Bergh could be modified to represent a number of user profiles contained within a set of user profiles as required by the claims. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988) (in rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness).

Therefore, we cannot sustain the rejection of independent claims 1, 10, and 11.

Appeal 2010-008230
Application 09/196,338

Since the remaining claims depend from one of independent claims 1, 10, and 11, and since we cannot sustain the rejection of claims 1, 10, and 11, the rejection of the dependent claims likewise cannot be sustained.

REVERSED

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